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	Contact: Rebekah Mason Visconti, Director, Office of Legal Services	
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	Distribution: <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> DHS Child Welfare Staff <input type="checkbox"/> Private Agency Child Welfare Staff <input checked="" type="checkbox"/> CSA Central Office Managers/Staff <input type="checkbox"/> Native American Tribes <input type="checkbox"/> Data Management <input checked="" type="checkbox"/> DHS County Directors <input type="checkbox"/> Adult Services Staff <input checked="" type="checkbox"/> Other: BSC Directors </div> <div> <input type="checkbox"/> BCAL <input type="checkbox"/> CWTI <input type="checkbox"/> SACWIS </div> </div>	

To determine when it is appropriate for DHS to pay professional witness fees in child protective proceedings, it is necessary to determine how the professional witness is involved in the case. Some professionals are fact witnesses, some provide on-going services to the child or family, and some are engaged as litigation consultants.

The Professional as Fact Witness:

A fact witness is a person with first-hand knowledge about what happened, i.e., the facts or events in a particular case. Common examples include a neighbor, relative, police officer, the family doctor, and the emergency room doctor whom may testify as to the injuries or events personally observed; the statements made by a party explaining the injuries, course of treatment, diagnosis or other issues of fact. DHS does **NOT** pay a professional fee for fact witnesses.

The Professional Service Provider:

Once DHS substantiates a case, medical, psychological and other professional services are often provided to the family. In many cases, the Department has on going arrangements with these professionals whereby they agree to treat the family and will waive any professional fees if it is necessary for them to prepare reports for court, or to come to court and testify. Some specialists may be consulted on an as needed basis, such as a radiologist, or orthopedic or neurological specialist, and they may expect to be paid a professional fee for attending court. In cases where the Department selects professional services, the Department should attempt to obtain a professional witness fee waiver. If that is not possible, and it is necessary for the witness to testify, DHS will pay a reasonable professional fee that has been approved by the court.

The Professional Litigation Consultant:

When the Department and their counsel agree that it is necessary for an expert in a particular field to be consulted on a case, DHS will pay the consultation fees and reasonable professional witness fees as approved by the court. For example it may be necessary to have a forensic pediatric neurologist review autopsy reports and testify to a cause of death in a "shaken baby case"; or to retain a pediatric psychologist to testify regarding a child's lack of physical and mental development in the home.

Be Proactive, Not Reactive:

MCL 712A.25 (1) states: “(1) Except as otherwise provided by law, expenses incurred in carrying out this chapter [i.e., the juvenile code] shall be paid upon the court’s order by the county treasurer from the county’s general fund.”

Rather than engage in discussions after the fact about whether the state or county is responsible for these expenses, every Department director should meet with the supervisor of the attorney or attorneys who provide legal services to the Department and discuss how they can work together to minimize professional witness fee expenses. A copy of this memo has been provided to every Prosecuting Attorney and they will be expecting you to contact them to determine how best to minimize these expenses in your county.